

Persons do not incur Retailers' Occupation Tax liabilities upon gross receipts from such occasional sales and purchasers do not incur Use Tax liabilities in regards to such purchases. See 86 Ill. Adm. Code 130.110. (This is a GIL.)

July 21, 2003

Dear Xxxxx:

This letter is in response to your letter dated June 3, 2003. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I represent the NAME estate. They sold some items of personal property. Is there any sales tax due and owing? Please advise.

**DEPARTMENT'S RESPONSE:**

Section 1 of the Retailers' Occupation Tax Act states in part that:

"The isolated or occasional sale of tangible personal property at retail by a person who does not hold himself out as being engaged (or who does not habitually engage) in selling such tangible personal property at retail, . . . does not constitute engaging in a business of selling such tangible personal property at retail within the meaning of this Act..." 35 ILCS 120/1.

Because of this statutory provision, persons (as defined in the Retailers' Occupation Tax Act) do not incur Retailers' Occupation Tax liabilities upon gross receipts from such occasional sales and purchasers do not incur Use Tax liabilities in regards to such purchases. See the enclosed copy of 86 Ill. Adm. Code 130.110. Person under the Retailers' Occupation Tax Occupation Tax Act includes an "executor, trustee, guardian or other representative appointed by order of any court." 35 ILCS 120/1. Legal representatives of an estate do not generally incur Retailers' Occupation Tax liability when selling the assets of an estate.

Since many executors use auctioneers or other agents to sell estate assets, you may also want to review the enclosed copy of 86 Ill. Adm. Code 130.1915 regarding the Retailers' Occupation Tax liability of Auctioneers and Agents.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
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